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1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 - - - - -x
5 In re
6 Case No.
16-45646 (CEC)
7 BOYSIN RALPH LORICK,
CYNTHIA THERESA LORICK,
8 Debtors.
9 - - - - -x
10 90 Merrick Avenue
East Meadow, New York
11 October 4, 2017
12 1:53 p.m.
13

14 DEPOSITION of MOHAMMAD CHOUDHARY, a
15 Witness in the above-entitled action, held
16 at the above time and place, taken before
17 Susan Adams, a Shorthand Reporter and
18 Notary Public of the State of New York,
19 pursuant to the Federal Rules of Civil
20 Procedure and stipulations between
21 Counsel.

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2 APPEARANCES:

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4 CERTILMAN BALIN ADLER & HYMAN, LLP

5 Attorneys for Soleyman Ghalchi

6 90 Merrick Avenue

7 East Meadow, New York 11554

8 BY: RICHARD J. McCORD, ESQ.

9

10

11 KILPATRICK TOWNSEND & STOCKTON, LLP

12 Attorneys for Defendant

13 Wells Fargo Bank

14 1114 Avenue of the Americas

15 New York, New York 10036

16 BY: MAXIMILIANO RINALDI, ESQ.

17

18 JANE NADELSON, ESQ.

19 Attorney for Mohammad Choudhary

20 3024 Coney Island Avenue

21 Brooklyn, New York 11235

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2 STIPULATIONS

3 IT IS HEREBY STIPULATED AND AGREED, by

4 and among counsel for the respective

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5 parties hereto, that the filing, sealing
6 and certification of the within deposition
7 shall be and the same are hereby waived;

8 IT IS FURTHER STIPULATED AND AGREED
9 that all objections, except as to form of
10 the question, shall be reserved to the
11 time of the trial;

12 IT IS FURTHER STIPULATED AND AGREED
13 that the within deposition may be signed
14 before any Notary Public with the same
15 force and effect as if signed and sworn to
16 before the Court.

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1 M. Choudhary
2 MOHAMMAD CHOUDHARY,
3 a Witness herein, having first
4 been duly sworn by the Notary
5 Public, was examined and
6 testified as follows:
7 EXAMINATION BY

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8 MR. MCCORD:

9 Q. Would you please state your name
10 for the record.

11 A. Mohammad Choudhary.

12 Q. Where do you reside?

13 A. 4200 Atlantic Avenue, Brooklyn,
14 New York 11224.

15 Q. Hi, Mr. Choudhary. My name is
16 Richard McCord. I am Mr. Soleyman
17 Ghalchi's attorney in this matter
18 pertaining to Boysin Ralph Lorick and
19 Cynthia Theresa Lorick, Chapter 11 Case
20 Number 16-45645-NLH.

21 I don't know why I do that. You
22 already have it, don't you. Anyway, I
23 will be asking you some questions today.

24 Have you ever been deposed
25 before in a deposition like this?

5

1 M. Choudhary

2 A. I don't remember. A long, long
3 time I think in one case.

4 Q. So anyway, you're under oath and
5 under penalties of perjury. And sitting
6 here today testifying in that matter is
7 the same thing as you if you were sitting
8 in a court of law.

9 Do you understand?

10 A. Yes, sir.

11 MR. MCCORD: Off the record.
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12 [Discussion held off the
13 record.]
14 MR. MCCORD: Back on the record.
15 Q. Do you understand that, that
16 you're under penalties of perjury, and
17 that it's the same thing as if you're
18 sitting in a court of law?
19 A. Yeah.
20 Q. I will be asking you some
21 questions. If I ask you something you
22 don't understand, please tell me and I'll
23 try to clarify it. If I ask you a
24 question where you don't know the answer,
25 please tell me. I prefer you don't guess.

6

1 M. Choudhary
2 And then we'll just move on.
3 Do you understand?
4 A. Yes, sir.
5 Q. Okay. And you see this young
6 lady here is the court reporter and she
7 can only take one person's statements down
8 at a time, so let's try not to talk at the
9 same time.
10 Okay?
11 A. Okay.
12 Q. Are you under any kind of
13 medication or anything like that that
14 would interfere with your ability to

oct 4 17(2).txt
15 openly and honestly answer my questions
16 today?
17 A. No.
18 Q. Okay. All right. I show you --
19 MR. MCCORD: Let's mark this in,
20 please.
21 (Whereupon, Choudhary Exhibit 1,
22 subpoena to testify at a deposition in
23 a bankruptcy case was hereby marked
24 for identification, as of this date.)
25 MS. NADELSON: September 28 is

7

1 M. Choudhary
2 the prior one.
3 MR. MCCORD: Right.
4 Q. I show you what's been marked as
5 Choudhary Exhibit 1. It says "Subpoena to
6 testify at a deposition in a bankruptcy
7 case"; do you see that?
8 A. Yeah.
9 Q. And is that why you're here
10 today although it's dated September 28,
11 that was adjourned until today, the actual
12 date, but other than that, is that why
13 you're here today?
14 A. Yes.
15 Q. Okay. Could you just put the
16 exhibits over behind the reporter's
17 laptop.
18 MR. MCCORD: Mark this in.

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19 (Whereupon, Choudhary Exhibit 2,
20 check from the Brownstone Agency, Inc
21 on behalf of Aspen American Insurance
22 Company was hereby marked for
23 identification, as of this date.)

24 Q. I show you what's been marked as
25 Choudhary Exhibit 2, it's a check from the

8

1 M. Choudhary
2 Brownstone Agency, Inc on behalf of Aspen
3 American Insurance Company.

4 Do you see it?

5 A. Yeah.

6 Q. And it's in the amount of
7 \$153,356.03 --

8 A. Yeah.

9 Q. -- do you see it?

10 A. Yeah.

11 Q. "Made payable to Boysin Lorick
12 Wells Fargo Bank as trustee, Douglas
13 Rosenberg," etcetera; do you see that?

14 A. Yeah.

15 Q. And it's dated November 19,
16 2014; do you see that?

17 A. Uh-huh.

18 Q. Do you know what that's for?

19 A. No.

20 Q. Have you ever seen that before?

21 A. Never.

oct 4 17(2).txt
22 Q. Have you ever heard of the
23 company Brownstone Agency or Aspen
24 American Insurance Company?

25 A. Never.

9

1 M. Choudhary

2 Q. Have you ever heard of any of
3 the people that it's payable to?

4 A. Boysin Lorick.

5 Q. Anyone else?

6 A. Only Lorick.

7 Q. No one else?

8 A. No one else.

9 Q. Okay. This is a check from the
10 insurance company. This says check from
11 the insurance company payable to those
12 people because of the fire damage at Mr.
13 Lorick's building in 2013 at 3126 Coney
14 Island Avenue, Brooklyn, New York; are you
15 aware of that?

16 A. No.

17 Q. Okay. Did you have anything to
18 do with that building at that time on
19 behalf of Mr. Lorick?

20 A. I just remember -- what I
21 remember, you know, after the fire I
22 pulled a permit on something, that's the
23 only thing I did, I pulled the permit.

24 Q. Okay.

25 MS. NADELSON: Do you have a
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10

1 M. Choudhary

2 copy of the permit, right?

3 MR. MCCORD: Mark this in,

4 please.

5 (Whereupon, Choudhary Exhibit 3,

6 copy of the permit issued to Mohammad

7 Choudhary on July 29, 2013 was hereby

8 marked for identification, as of this

9 date.)

10 Q. I show you what's been marked as

11 Choudhary Exhibit 3, is that the permit

12 that you're talking about that was issued

13 to you Mohammad Choudhary on July 29,

14 2013; do you see that?

15 A. Yeah.

16 Q. And the work to be performed is

17 alteration type 2 general construction --

18 A. Yeah.

19 Q. -- and interior renovation of

20 apartments; do you see that?

21 A. Yeah.

22 Q. Okay. Are you the Mohammad

23 Choudhary that's on this permit?

24 A. Yes, sir.

25 Q. Okay. And did you perform the

11

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1 M. Choudhary

2 work?

3 A. No, sir.

4 Q. Who did, if you know?

5 A. I have no idea it was his people

6 I don't know. No, I didn't.

7 Q. Do you know over here the

8 company called 786 Contracting, Inc.?

9 A. That is mine.

10 Q. That is your company?

11 A. Yes, sir.

12 Q. If you look at the exhibit

13 that's the business that's listed on the

14 permit; do you see that?

15 A. Yes, sir.

16 Q. Was the building destroyed by

17 the fire?

18 MS. NADELSON: It's a leading

19 question, he doesn't know.

20 Q. Mr. Lorick's building, was it

21 destroyed; if you know?

22 A. It was not destroyed.

23 MS. NADELSON: The building,

24 it's a huge building.

25 Q. According to this permit there

12

1 M. Choudhary

2 seems to be a lot of renovation work that

3 needed to be done; is that correct?

4 A. I don't think it was a lot of

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5 work to be done. It was smoke and this
6 and that.

7 We pulled the permit because of
8 the violation. I don't remember. It was
9 a long time ago, but I know I pulled the
10 permit but I never did the work there.

11 Q. Who did the work?

12 A. I have no idea who did the work
13 there.

14 Q. Was it done?

15 A. I don't know if it was done or
16 not. And I even don't remember if I
17 closed the permit on this one.

18 MS. NADELSON: Obviously not
19 if --

20 MR. MCCORD: Ms. Nadelson,
21 please.

22 Q. Why did you apply for the
23 permit, if you weren't planning on doing
24 the work?

25 MS. NADELSON: If you don't

13

1 M. Choudhary
2 remember or you don't know the answer,
3 just say so.

4 Q. Why did you apply for the
5 permit, if you didn't do the work?

6 A. Well, we know each other. Once
7 in a while if I have a plumbing problem he

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8 helps me and I help him. That was just --

9 Q. A plumbing problem, did you say?

10 A. No, I mean in my building he's a
11 very handy man also.

12 MS. NADELSON: He asked you a
13 question, I'm sorry, if you did any
14 work on this building.

15 THE WITNESS: No.

16 Q. I asked you another question
17 after that question which was, why did you
18 apply for the permit, as you were
19 answering before your attorney interrupted
20 you.

21 MS. NADELSON: Yes, sorry.

22 Q. Is it because you work together
23 and you help each other out; is that what
24 you're saying; is that your testimony?

25 A. Yes, sir. Sometimes you know on

14

1 M. Choudhary
2 the construction problems, yes.

3 Q. Do you know why he didn't apply
4 for the permit?

5 A. I don't think he has. I don't
6 know why he didn't apply.

7 Q. Does he have a license to do
8 general contracting, if you know?

9 A. I don't know. I don't think so.

10 Q. Do you?

11 A. I do.

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12 Q. Do you now?
13 A. Yes, I do.
14 Q. Did you have in 2013 when you
15 applied for this permit?
16 A. Yes, I do.
17 Q. So you would apply for the
18 permit to do the work because you're
19 licensed to do this kind of work at that
20 time in 2013 and Mr. Lorick is not; is
21 that correct?
22 A. Yes.
23 Q. Okay. And then you got the
24 permit, correct?
25 A. Yeah, yeah.

15

1 M. Choudhary
2 Q. It was issued, correct?
3 A. Yeah, yeah.
4 Q. And is it your testimony that
5 you never did the work?
6 A. Never did the work. I even
7 don't remember when did he do the work.
8 Q. But --
9 A. Yes, I pulled the permit.
10 Q. Did he do the work under this
11 permit --
12 MS. NADELSON: You already asked
13 him this question.
14 Q. -- if you know?

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15 A. I don't know if he did with this
16 permit or what. I don't know. I don't
17 know who did it.

18 Q. It's your testimony you don't
19 know if the work was ever done; is that
20 correct?

21 A. I don't know. Yes, I don't
22 know.

23 Q. Do you know if it was done or
24 not done?

25 A. I don't remember that, if it was

16

1 M. Choudhary
2 done or not done. I don't remember that.

3 Q. Well, when was the last time you
4 were in the building at 3126 Coney Island
5 Avenue, Brooklyn, New York?

6 A. I don't remember. I don't go
7 there. We mostly meet -- no, I don't
8 remember.

9 Q. Mostly where?

10 A. On the street.

11 Q. Do you meet at your office?

12 A. At my office and on the street.

13 Q. Where is your office?

14 A. Just one block.

15 Q. What's the address?

16 A. 3072 Coney Island Avenue.

17 Q. What's the purpose of meeting in
18 your office, is it for business purposes?

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19 What is the purpose of meeting in your
20 office?

21 A. We have no business. Just as I
22 told you we help each other. If there is
23 any problem, the way I pull the permit if
24 I have any problem, he's a very good
25 plumber, he will help me a little bit.

17

1 M. Choudhary

2 It's nothing more than that.

3 Q. So how often do you meet with
4 him in your office?

5 A. It's not in the office that he
6 has to come to my office. Whenever he
7 wants he comes but not so often. Mostly
8 on the street, hi, hello.

9 Q. How long have you known Mr.
10 Lorick?

11 A. Long time.

12 Q. Can you be a little bit more
13 specific?

14 A. More than ten years, a long
15 time.

16 Q. Do you own any businesses with
17 him?

18 A. No.

19 Q. Are you in any type of business
20 venture with him, if you know what that
21 means?

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- 22 A. No.
- 23 Q. Have you ever been?
- 24 A. No.
- 25 Q. And do you know Cynthia Theresa

18

- 1 M. Choudhary
- 2 Lorick?
- 3 A. I met her only once in the
- 4 court. I don't know her so close.
- 5 Q. And you know about the Chapter
- 6 11 bankruptcy filing of Mr. Lorick?
- 7 A. I don't know anything what the
- 8 bankruptcy is, but I know he filed and
- 9 that is how I know but I don't know what
- 10 is it.
- 11 Q. Do you know he filed on December
- 12 15, 2016?
- 13 A. Yeah. He filed the bankruptcy,
- 14 yes.
- 15 Q. That he filed it in December 15,
- 16 2016?
- 17 A. Yes.
- 18 Q. How do you know he filed that?
- 19 A. He told me.
- 20 Q. He told you?
- 21 A. Yeah. He discussed with me,
- 22 yeah.
- 23 Q. Did you know he filed bankruptcy
- 24 in July of 2016 Chapter 13, another type
- 25 of bankruptcy, did he tell you that?

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1 M. Choudhary

2 A. No, I think this is the one I
3 know. I don't know the before one.

4 Q. He never told you about the
5 before one?

6 A. No, no. The latest one is the
7 one I know only.

8 Q. Do you know an attorney by the
9 name of Frank Wharton?

10 A. No.

11 MS. NADELSON: I'm sorry, Mr.
12 McCord.

13 I think he's missing in the --
14 it's because it was so close to each
15 other, can you rephrase your question
16 regarding --

17 MR. MCCORD: Let me make a
18 statement for the record.

19 Ms. Nadelson, hopefully, you
20 have a pen and piece of paper and I
21 will permit you when I'm done to ask
22 questions that you feel is
23 appropriate, either for purposes of
24 clarifying what I asked or expanding
25 upon it, but interrupting me in this

20

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1 M. Choudhary
2 fashion is not appropriate.
3 MS. NADELSON: I'm sorry.
4 MR. MCCORD: Take notes, and I
5 will give you an opportunity to ask
6 questions to clarify.
7 Okay. Thank you.
8 MS. NADELSON: Sorry.
9 Q. Do you know an attorney by the
10 name of Frank Wharton?
11 A. No.
12 Q. As you sit here today, you don't
13 recall Mr. Lorick ever telling you about
14 the first bankruptcy that he filed?
15 A. Yes -- no, he never told me.
16 Q. When did he tell you about this
17 one, the one that he's in now and the
18 reason why we are here today?
19 A. No. This is -- last year, you
20 know.
21 Q. Before or after he filed
22 bankruptcy?
23 A. No, no, before. He told me
24 before he needed -- he told me before.
25 Q. He told you before, what did he

21

1 M. Choudhary
2 tell you before?
3 A. I don't remember, but he told me
4 he talks --

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5 Q. Did he ask you for any kind of
6 help?

7 A. Yeah, you're talking about
8 bankruptcy?

9 Q. Yeah.

10 A. Yes.

11 Q. What did he ask you?

12 A. He said that -- he said
13 something like that his building is going
14 to auction, and what you call that guy who
15 takes care of the building, what is it?

16 MS. NADELSON: Trustee.

17 A. -- the trustee told him that
18 still you could save it if you file
19 bankruptcy; so do you know anybody any
20 lawyer or anything. I said I don't
21 know -- first time I'm hearing from you
22 that there is a bankruptcy. So this is
23 how we spoke.

24 Q. That was it?

25 A. No, no. Then he ask me whatever

22

1 M. Choudhary
2 the question he ask me about the attorney.
3 I said I don't know, but I know Jane
4 Nadelson and we could ask her.

5 Q. Okay.

6 A. Then we ask.

7 Q. What happened next?

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8 A. Then we ask her and then she
9 recommended Norma.
10 Q. Norma Ortiz?
11 A. Yeah.
12 Q. Okay. And then what happened
13 after she recommended Norma?
14 A. I don't know. We went there and
15 we spoke to her.
16 Q. You went to Ms. --
17 A. Not me I didn't speak or
18 anything. There was one more guy Vi to, I
19 think. We were sitting out and they were
20 talking?
21 Q. Who is "they"?
22 A. Norma, Boysin and Jane.
23 Q. They were talking about the
24 bankruptcy?
25 A. I don't know what they were

23

1 M. Choudhary
2 talking about, it was not in front of me.
3 Q. Where were you that you saw them
4 talking?
5 A. No, I was in the waiting room.
6 She had a little waiting room.
7 Q. They were not in the waiting
8 room?
9 A. No, I think they went inside.
10 Q. It was like a conference room?
11 A. Conference room, yeah.

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12 Q. Jane Nadelson, Norma Ortiz and
13 Boysin Lorick went into a conference room?

14 A. Yes.

15 Q. Is it your testimony that you
16 and Vi to this person Vi to stayed in
17 another room?

18 A. Yeah.

19 Q. And do you remember when that
20 was?

21 A. I don't remember.

22 Q. Was that before or after he
23 filed bankruptcy?

24 A. No, it was before.

25 Q. Was it in December of 2016?

24

1 M. Choudhary

2 A. I don't remember the date.

3 Q. What happened next after they
4 had that meeting?

5 A. Then I think he hired Norma and
6 then they -- the case started whatever,
7 then it was between them.

8 Q. Did you have anymore involvement
9 with the preparation or the bankruptcy
10 filing at all, you personally?

11 A. No.

12 Q. Did Mr. Lorick talk to you about
13 it at all?

14 A. Yes, he did.

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15 Q. What did he tell you?
16 A. He talks different things, I
17 mean that the paperwork. And sometimes
18 not all the times.
19 Q. At that time what did he tell
20 you?
21 A. At that time when we were there?
22 Q. Right after he met with Ms.
23 Ortiz and Ms. Nadelson.
24 A. He's hiring her.
25 Q. Did he say for how much?

25

1 M. Choudhary
2 A. No. He did not mention anything
3 to me.
4 Q. Did he say anything about hiring
5 Ms. Nadelson also or just Ms. Ortiz?
6 A. Just Ms. Ortiz, just Ms. Ortiz.
7 Q. And did you ask Ms. Nadelson to
8 assist him with his bankruptcy process --
9 A. Yes.
10 Q. -- and explain what that means.
11 A. Well, he ask her that he's a
12 very good person. He in trouble, can you
13 help him, can you get somebody good for
14 him, can you help him. And he really --
15 she also was doing a lot.
16 Q. Like what?
17 A. I mean many questions he was
18 asking, and she answered.

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19 Q. Ms. Nadel son?
20 A. Yeah.
21 Q. She was answering --
22 A. Yeah.
23 Q. -- to him or to him and Ms.
24 Ortiz?
25 A. To him, to Boysin.

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1 M. Choudhary
2 Q. Did he pay her for any of that?
3 A. I don't think so.
4 Q. Did you?
5 A. No.
6 Q. Okay. Is Ms. Nadel son your
7 attorney?
8 A. Yes.
9 Q. And is she on a general
10 retainer, do you pay her like one fee
11 every month or --
12 A. No. Whenever she do, she do for
13 me, landlord-tenant she do for me the
14 closing I mean mortgage closing, all these
15 so I pay her per job.
16 Q. And why was she, do you know, in
17 this meeting with Ms. Ortiz and Mr.
18 Lorick?
19 A. I begged her to help him because
20 he's a very nice man.
21 Q. She said okay?

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22 A. Yeah.

23 Q. She helped him?

24 A. Yeah.

25 MS. NADELSON: How did I help

27

1 M. Choudhary

2 him?

3 MR. MCCORD: Ms. Nadelson.

4 MS. NADELSON: I'm sorry.

5 Q. So she helped him?

6 A. She helped him to take there,

7 she went there with us.

8 MR. MCCORD: What was that?

9 A. To take to the office.

10 Q. So you went in the same car to

11 Ms. Ortiz' office?

12 A. Yes.

13 Q. Did you pick up Ms. Nadelson,

14 and bring her there or did she meet you

15 there?

16 A. No, no we went together.

17 Q. Was Vi to driving the car?

18 A. I think so.

19 Q. And he --

20 MS. NADELSON: Vi to?

21 MR. MCCORD: Ms. Nadelson,

22 please.

23 Q. It was Mr. Lorick's car?

24 A. I don't remember that. I think

25 it was Vi to -- I think it was Ms.

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28

1 M. Choudhary
2 Nadel son' s car. I don' t remember exactly.
3 Q. You said he' s a very good man
4 Mr. Lorick?
5 A. Yes.
6 Q. You wanted Ms. Nadel son to help
7 him?
8 A. Yes. Help him to find the
9 attorney.
10 Q. Did you ask Ms. Nadel son to help
11 him beyond that finding the attorney to do
12 anything more for him than finding the
13 attorney?
14 A. What else can she do for him, I
15 don' t know. No, no.
16 Q. Did you ask her?
17 A. No, she find the attorney. Then
18 they were talking to each other, both.
19 Q. Do you know if she provided
20 information to Ms. Ortiz and Ms. DeJesus,
21 regarding Mr. Lorick' s information; did
22 you know that?
23 A. Who is Mr. --
24 Q. Did you know Ms. Nadel son
25 provided information to Ms. Ortiz and Ms.

29

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1 M. Choudhary

2 DeJesus regarding --

3 MS. NADELSON: Martha.

4 Q. Martha DeJesus, do you know who
5 that is?

6 A. Yeah. I know Martha, yeah.

7 Q. Do you know Ms. Nadel son gave
8 them some information about Mr. Lorick?

9 A. I don't know. They were
10 talking, and whatever information she gave
11 I don't know. Ask Ms. Nadel son that.

12 Q. This is your deposition so?

13 A. I'm sorry.

14 Q. That's why I'm asking you.

15 A. I'm sorry, sir.

16 Q. So after he filed do you
17 remember when he told you he filed; was it
18 December, was it January, was it the same
19 day he filed?

20 A. No, the same time when we saw
21 Ortiz, Norma, I think he hired her that
22 time. And I don't know when it was filed,
23 but right after, soon after.

24 Q. Did you have any contact with
25 him after that about the property right

30

1 M. Choudhary

2 after he filed; did you have any

3 discussions with him about the property

4 located at 3126 Coney Island Avenue,
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5 Brooklyn?

6 A. Yeah.

7 Q. Was it right after he filed that
8 you had discussions with him?

9 A. We had a discussion. I don't
10 know. It was right after filing, but yes,
11 many times we had discussions.

12 Q. Before he filed within the year
13 or six months before he filed, did you
14 ever talk to him about buying the building
15 from him before he filed?

16 A. Yeah. Before he filed, yes.
17 Well like five or six years ago you know
18 he wanted to sell the building he wrote on
19 a piece of paper, but then he changed his
20 mind.

21 I said that's okay. You don't
22 want to sell, it's okay, but he wanted to
23 sell. Yes, we did discuss.

24 Q. And last year did you discuss it
25 last year, too, about him selling the

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1 M. Choudhary

2 building when he was going through these
3 difficulties with the foreclosure action?

4 A. He's the one who wanted, I don't
5 know when -- yes, we discussed. He's the
6 one who wanted to, not to sell he wanted
7 to keep the building all the time, and he

oct 4 17(2).txt
8 wanted to sell some share out of it.

9 Q. Okay.

10 A. He never wanted to sell the
11 whole thing.

12 Q. After the bankruptcy filing, did
13 you continue to discuss the status of the
14 building, his ownership, to sell or for
15 the refinance of the building?

16 A. Yeah.

17 Q. Okay. What were your
18 discussions?

19 A. He said if he could get a
20 mortgage on my building and, you know, pay
21 for that, then he will sell me 10 percent
22 of the building. That is the discussion
23 we had.

24 Q. And did you agree to that?

25 A. Yes.

♀

32

1 M. Choudhary

2 Q. Okay. Any other proposals other
3 than that?

4 A. Then the building was going to
5 auction. There was bidders. They put
6 like 5.2. That's what Norma told him, and
7 I told him listen --

8 MS. NADELSON: That's what Norma
9 told him.

10 A. I will say I will buy it for 6
11 million.

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12 Q. And this was during the
13 bankruptcy?

14 A. After they file the bankruptcy,
15 yeah, this is recent like three, four
16 months all this is within three, four
17 months.

18 Q. You said you would buy it for 6
19 million?

20 A. Yeah.

21 Q. What did he say?

22 A. Boysin? Then Norma said it's a
23 capital gains issue. It's this issue.
24 And besides that really he was crying he
25 never wanted to sell the building. He

33

1 M. Choudhary
2 never wanted to. Then I don't want to buy
3 it.

4 Q. Did you ask Ms. Nadelson to
5 assist Norma with researching the law
6 about capital gains tax liability that you
7 just said about the capital gains, did you
8 ask Ms. Nadelson to help Ms. Ortiz?

9 A. We all looking for that. If
10 there's a capital gains.

11 Q. Who is "we all"?

12 A. Me, Nadelson, Ms. Nadelson and
13 Boysin talking to -- he was talking to his
14 accountant, I was talking to mine,

oct 4 17(2).txt
15 actually to help him, that how much is and
16 should he sell or not. That was his
17 concern and Norma's concern.

18 Q. And you also spoke to Ms.
19 Nadelson about it, the capital gains?

20 A. I think, yeah, we discussed.

21 Q. Do you know --

22 A. But I spoke to my accountant.

23 Q. What's your accountant's name?

24 A. Eric.

25 Q. Eric what?

34

1 M. Choudhary

2 A. Krupnik.

3 Q. Did you pay Ms. Nadelson any
4 money in the past 11 months to work on
5 this case for you, the bankruptcy case?
6 Or --

7 A. No.

8 Q. Or the deal with Lorick?

9 A. No.

10 Q. Did you pay any kind of mortgage
11 broker to assist you in this arrangement
12 with Lorick?

13 A. Two or three brokers I paid.

14 Q. How much did you pay them?

15 A. One I paid 15,000. I don't
16 remember exactly, but it was close to
17 15,000.

18 Q. That was a real estate broker?

oct 4 17(2).txt

19 A. Mortgage broker.
20 Q. Mortgage broker?
21 A. Yeah.
22 Q. You paid 15,000?
23 A. Yeah.
24 Q. Do you know when that was?
25 A. Within these four or five

35

1 M. Choudhary
2 months.
3 Q. Okay. Do you know the name of
4 the broker?
5 A. I have -- I don't remember it
6 now.
7 MR. MCCORD: I will leave a
8 space in the transcript, and you can
9 fill that in.
10 (Insert)_____
11 _____
12 A. Yeah.
13 Q. That's one for 15,000. Who else
14 did you pay?
15 A. She charge different. She
16 charge for appraising all of my different
17 properties and for starting the
18 application? --
19 Q. Did she get the appraisal done?
20 A. Yeah. On all of my other
21 properties.

oct 4 17(2).txt
22 Q. Who else did you pay?
23 A. The last one I paid \$30,000 to
24 this guy. The last one he had did
25 something.

36

1 M. Choudhary
2 Q. That was a good faith deposit?
3 A. Yeah.
4 Q. So that's \$45,000; have you paid
5 any other money?
6 A. I spent a lot of money on the
7 mortgage that was only for him. I
8 refinance my building. I paid a 15,000
9 prepayment penalty when I was not supposed
10 to. And I spent a lot of money on my
11 mortgage, but that he said that is his
12 expense I mean.
13 Q. How did he propose to pay you
14 back?
15 A. If you know if either 10 percent
16 share he will adjust there or he will,
17 whenever he sells the building, he will
18 pay me back that money.
19 Q. Do you know how much Wells Fargo
20 is owed at this time, the creditor, Wells
21 Fargo [indicating]?
22 A. I don't know exactly.
23 Q. Is it about \$5 million?
24 A. Yeah.
25 Q. And you know that your highest

oct 4 17(2).txt

37

1 M. Choudhary

2 bid at the auction was 7.4 million?

3 A. Yeah.

4 Q. And Mr. Ghalchi, my client's,

5 was 7.350, correct?

6 A. Yeah.

7 Q. So that means there's probably
8 gonna be \$2 million equity; is that right?

9 A. Yeah.

10 Q. So are you expecting Mr. Lorick
11 to pay you back for these expenses that
12 you laid out to help him?

13 A. Of course, I need all those
14 back.

15 Q. And that's the 45,000 that you
16 just identified plus --

17 A. No. 30,000 didn't go through
18 because the next day the scene was
19 against. This was on the -- this August,
20 I don't know, 17, 18 and on the 21st it
21 was gone against so that didn't go
22 through.

23 Q. So how much money when he sells
24 this property, do you expect him to pay
25 you back, not to the penny but

38

oct 4 17(2).txt

1 M. Choudhary
2 approximately how much money have you laid
3 out that you expect him to pay back to
4 you?

5 A. Well, all the mortgage but we
6 have to sit down.

7 Q. How much?

8 A. We have to sit down.

9 Q. Approximately how much?

10 A. It's more than 100,000.

11 Q. And he, I think you testified he
12 said it was his expense --

13 A. Yes.

14 Q. -- that's what you said --

15 A. Yes.

16 Q. -- he agreed to pay you back?

17 A. Yes.

18 Q. Okay. Other than the 100,000
19 that you just talked about, and the
20 mortgage and the good faith deposit and
21 the brokers, you said several brokers,
22 correct?

23 A. Yeah. Three, four, brokers.

24 Q. Did you pay each three or four
25 brokers money or just that one broker the

39

1 M. Choudhary

2 15,000?

3 A. The other one -- see one of the
4 brokers I paid him \$24,000 out of the

oct 4 17(2).txt

5 closing.

6 Q. That's different than the woman?

7 A. Different than the woman.

8 Q. So --

9 A. 24,000, I paid him at the
10 refinance when we refinance the building,
11 but that was understanding with him that
12 you will get us the balance of the money
13 to pay for 5 million, whatever that was.
14 So he was doing most of the work.

15 Q. That broker?

16 A. That broker.

17 Q. Do you remember his name?

18 A. David Steinmetz.

19 Q. So you paid the one woman
20 15,000, the broker, to get your appraisal
21 and to do things like that she did it?

22 A. She did, yes.

23 Q. Then you paid another broker for
24 the refinancing to help get other
25 financing together, the 24,000, correct?

40

1 M. Choudhary

2 A. Yes.

3 Q. So that's two brokers. Are
4 there any other brokers that you paid?

5 A. I don't remember if I paid any.

6 Q. Because you said three or four?

7 A. I went to three or four, but I

oct 4 17(2).txt

8 don't think I paid them. I mean they
9 were --

10 Q. And all along this time which
11 was this year --

12 A. Yeah.

13 Q. -- after he filed bankruptcy,
14 right?

15 A. Yes.

16 Q. Were you trying to work out this
17 arrangement with him and for him to
18 refinance the building, correct?

19 A. Not for him. 10 percent I was
20 buying.

21 Q. Well, other than the 10 percent?

22 A. Yeah.

23 Q. So you went to these brokers,
24 did he go with you to these brokers?

25 A. Most of, yes.

♀

41

1 M. Choudhary

2 Q. Three or four brokers. There
3 were some of them you paid money and some
4 of whom you didn't. So what help did you
5 get to refi or was it help for you to sell
6 or both?

7 A. No, we were just over there just
8 to pay to the bank never to --

9 Q. What were you asking these
10 brokers to do for you? The two of you
11 told me about. What about the other two,

oct 4 17(2).txt

12 what were you asking them to do for you?
13 A. To refinance this building.
14 Q. To help you get a refinance?
15 A. Yes.
16 Q. They were real estate brokers or
17 mortgage brokers?
18 A. Mortgage.
19 Q. They were all mortgage brokers?
20 A. Yes.
21 Q. No, real estate brokers?
22 A. Yes.
23 MR. RINALDI: Clarification,
24 when you say this building, which
25 building are you talking about?

42

1 M. Choudhary
2 THE WITNESS: 3126 -- no, that's
3 my building.
4 MR. RINALDI: You were trying to
5 refinance your building or Mr.
6 Lorick's?
7 THE WITNESS: No, I refinanced
8 my building and that money was
9 supposed to be paid for 10 percent and
10 the balance was going to him but.
11 Q. On 3126?
12 A. That is on my building 3076.
13 Q. But it was for the purpose of
14 enabling Lorick to take out Wells Fargo,

oct 4 17(2).txt

15 basi cal l y?

16 A. Yeah.

17 Q. To pay Wel l s Fargo for hi s
18 property, correct?

19 A. Yes.

20 Q. Okay. Thi s has been goi ng on
21 for months, up unti l the aucti on?

22 A. Yes.

23 Q. And you and Mr. Lorick wou l d go
24 to the mortgage brokers to obtai n what you
25 j ust descri bed to mysel f and Mr. Ri nal di ?

43

1 M. Choudhary

2 A. Yes.

3 Q. Are you aware that Mr. Lorick
4 hired a mortgage broker in July of thi s
5 year and pai d them \$25,000?

6 A. No.

7 Q. Wel l , the monthl y operati ng
8 report that i s requi red of debtors to fi l e
9 reflects for July and for August, a
10 \$25,000 payment to a mortgage broker?

11 A. I don' t know.

12 Q. You don' t know anythi ng about
13 that?

14 A. No, that he pai d. I don' t know.

15 Q. So i n addi ti on to you meeti ng
16 with these brokers and tryi ng to get the
17 refinance over these past months, i t must
18 of taken a l ot of your ti me?

oct 4 17(2).txt

19 A. Yes.

20 Q. How much time did you spend on
21 this over the last few months?

22 A. I never noted the hours, but I
23 spend a good time.

24 Q. Every day, every week?

25 A. Not every day. But yes, every

44

1 M. Choudhary

2 week.

3 Q. With Mr. Lorick?

4 A. Excuse me?

5 Q. With Mr. Lorick?

6 A. With Mr. Lorick.

7 Q. How would you describe your
8 relationship with Mr. Lorick? Are you
9 friends, are you business associates? Do
10 you do business together? How would you
11 describe your relationship, now and in the
12 past?

13 A. Not a business relationship, not
14 any close business but you could say a
15 friend helping each other.

16 Q. But you did do business together
17 on occasion, correct?

18 A. What is the business.

19 Q. Well, one, you just said he did
20 plumbing work for you, correct?

21 A. But that is not business.

oct 4 17(2).txt
22 Business is when you get paid from each
23 other.
24 Q. So you never paid him?
25 A. No, no, if I'm even overseas I

45

1 M. Choudhary
2 have problem in my building I will get
3 Boysin, can you go see, can you snake the
4 sewer line is clogged and different things
5 like that he needs permit I will pull, but
6 no business.
7 Q. When you went to these
8 brokers --
9 A. Yeah.
10 Q. -- what did you say, you were
11 friends or that you were trying to enter
12 into a financial arrangement together to
13 pay off Wells Fargo?
14 A. Yeah.
15 Q. And was that business?
16 A. Well, from here I don't know how
17 you want to describe it.
18 Q. I'm asking how would you
19 describe it, not me.
20 A. Not business, it's a straight
21 deal.
22 Q. But is that business or social?
23 A. It's --
24 MS. NADELSON: If you don't
25 know, just don't answer it.

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1 M. Choudhary

2 Q. How would you describe it,
3 business or social?

4 A. You can describe whatever you
5 want.

6 Q. I'm asking what you would say.
7 If I came up to you as a mortgage broker,
8 and said I'm interested in obtaining the
9 financing for you on this deal that you
10 will get 10 percent of the building,
11 there's loans, things like that, what
12 would you say to me? I want to hire you
13 and pay you to put this business deal
14 together, or this --

15 A. Yeah. You could call it
16 business, yeah.

17 Q. And did there come an occasion
18 where it failed, and you weren't able to
19 do it between you and Mr. Lorick and for
20 this property?

21 A. Yeah, it was -- yes.

22 Q. When did that happen?

23 A. It is one night before the
24 auction, 21st, 6:00, 7:00 when Norma
25 called that whatever she filed the motion

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oct 4 17(2).txt

1 M. Choudhary

2 was denied. It was like a bomb fell.

3 We never knew before that the
4 building is going for -- we were very
5 happy that we were getting the bank and
6 everything is fine.

7 Q. Who is "we"?

8 A. Me and Lorick.

9 Q. When you say you never knew?

10 A. The building is going for
11 auction.

12 Q. You never knew that?

13 A. Never.

14 Q. Neither did he?

15 A. I don't think. I don't think
16 he -- it was week before Vito comes to the
17 office, and he say that somebody is there,
18 he's saying the building is going for
19 auction.

20 He picks up the phone and he
21 calls Norma is the building going for
22 auction. She said are you kidding. So we
23 never knew the building. If he knew that
24 he hide it from me. I never knew the
25 building is going for auction. 21st at

48

1 M. Choudhary

2 6:00, 7 o'clock. The first time I was
3 shocked that the building is going for
4 auction. How is it going to auction, it

oct 4 17(2).txt

5 still big shock for me. Why is it going
6 to the auction when I refinanced the
7 building.

8 Norma knows about that
9 refinancing. And we going to the broker.
10 We telling her the moment you tell us to
11 come up with the money, we will come up
12 with the money. She's telling me, oh
13 there is a process, oh there is a process,
14 oh there is process and that process took
15 to the auction. I never knew that.

16 She always said, wait, there is
17 a process, there is a process. Norma took
18 it to the auction.

19 Q. So is it your testimony that you
20 have refinancing in place to take --

21 A. Oh, yeah. When we started --
22 hen the last 30,000, a hundred percent was
23 done.

24 Q. Is it still done, could you
25 still do it?

+

49

1 M. Choudhary

2 A. Well, he's very mad at me now.

3 Q. Who?

4 A. The broker. Well, he's now I
5 can't answer now if I'm able to. I cannot
6 answer that question at this time until I
7 have the building in my hands.

oct 4 17(2).txt
8 Q. Your attorney and Ms. Ortiz and
9 Ms. Macron -- do you know who Ms. Marilyn
10 Macron is?

11 A. No.

12 Q. You have said to me, to this
13 gentleman [indicating] and to the court
14 that you can buy the building for \$7.4
15 million; is that true?

16 A. Yes.

17 Q. Do you have \$7.4 million in the
18 bank?

19 A. No.

20 Q. So if you can, you want to do
21 that?

22 MS. NADELSON: Not at this
23 moment.

24 Q. You have 7.4 or you want to buy
25 the building for 7.4 million that's what

50

1 M. Choudhary
2 you bid on on August 22, and you're still
3 willing to do that today?

4 A. Yes.

5 Q. What the bank is concerned about
6 then and now is that you don't have the
7 ability to do it.

8 A. The bank accountant can do
9 anything he wants. The guy, I don't know
10 why he's so -- I don't know why he so
11 angry at me.

oct 4 17(2).txt

12 Q. He not angry at you.
13 A. No, he is. He doesn't want --
14 MS. NADELSON: Just answer the
15 question.
16 MR. MCCORD: He's trying to
17 answer the question, don't interfere.
18 A. I don't know why he thinks that
19 we always have the ability to pay.
20 Q. Mr. Choudhary?
21 A. Yes, sir.
22 Q. I can't tell you -- when you say
23 "he," I assume you mean the attorney for
24 the bank, and this is one of them by the
25 way, he's one the attorneys for the bank

51

1 M. Choudhary
2 [indicating], but he's probably not the
3 one who is at court. I can only imagine
4 who he's talking about.
5 MS. NADELSON: Colin, I believe
6 it is.
7 A. I'm talking about Colin.
8 Q. But in any case, this thing
9 could possibly, very possibly, I don't
10 know if Ms. Nadelson or anyone else told
11 you -- please you're under oath -- that
12 there's an assignment that's been
13 circulated that my client Ghalchi assigns
14 his contractor all rights to buy this

oct 4 17(2).txt

15 property to you, and then you can buy it?
16 A. Yes.
17 Q. Do you know that?
18 A. Yes.
19 Q. Okay. Pursuant to the bidding
20 terms that were approved by the court,
21 which means you have to close from 30 days
22 from September 11 which is October 11 and
23 if you want another 30-day extension you
24 have to put another 10 percent deposit and
25 then you can close no later than November

52

1 M. Choudhary
2 11; did you know that?
3 MS. NADELSON: Can you slow down
4 and repeat that, please.
5 Q. If you get this assignment?
6 A. Uh-huh.
7 Q. The first period of time in
8 which you're supposed to close based on
9 the orders of the court is October 11,
10 which is next Wednesday. I don't think
11 anybody can close that fast unless you
12 have the money in the bank.
13 Do you know that or did you know
14 that that was one of the terms?
15 A. I don't know that is the term.
16 Q. Well, now you know.
17 MS. NADELSON: Assignment.
18 Q. What is the assignment --

oct 4 17(2).txt

19 MR. MCCORD: Ms. Nadel son,
20 please, did your pen run out of ink;
21 would you please stop.
22 A. The assignment I know.
23 Q. The assignment is for my client,
24 who the court deemed to be the highest
25 bidder and knocked you out, disqualified

53

1 M. Choudhary
2 you out?
3 A. Yes, sir.
4 Q. My client is for no money
5 assign, well, for the return of his
6 deposit but from you no money, give you
7 his rights to buy this building?
8 A. Yes, sir.
9 Q. You know that --
10 A. Yes, sir.
11 Q. -- for \$7.4 million; you know
12 that?
13 A. Yes, sir.
14 Q. And you agree?
15 A. Yes, sir.
16 Q. So you know that?
17 A. Yes, sir.
18 Q. Okay. There are terms, there
19 are provisions that the judge, an order
20 from the judge, Judge Craig saying that
21 the people at the auction are buying this

oct 4 17(2).txt
22 property on August 22, you, pursuant to
23 certain terms and conditions --
24 A. Uh-huh.
25 Q. -- one of them is that you have

54

1 M. Choudhary
2 to put down a 10 percent deposit, which
3 you did?
4 A. I did.
5 Q. Another one is you have to prove
6 through documents that you have the
7 ability to get the rest of the money to
8 close?
9 A. Yeah.
10 Q. Did you do that?
11 A. If you give me the assignment,
12 then I will answer you that question I
13 need the assignment to go to anybody.
14 Q. Okay. All right.
15 A. Then yeah.
16 Q. All right. The judge did not
17 approve you on August 24, the judge
18 disqualified you and approved my client as
19 the successful bidder --
20 A. Yes, sir.
21 Q. -- Ghalchi?
22 MS. NADELSON: The judge --
23 Q. Now, we are agreeing to give you
24 the right to buy the property that you bid
25 on?

oct 4 17(2).txt

55

1 M. Choudhary

2 A. Yes, sir.

3 Q. But it's gotta be subject to the
4 same terms and conditions that you agreed
5 to on August 22, meaning you're supposed
6 to close within 30 days of when the judge
7 signed the order which was September 11th.
8 So the initial closing period, it expires
9 next week on October 11.

10 Can you close by October 11,
11 \$7.4 million?

12 A. Until I have assignment, I have
13 to --

14 Q. Yes or no?

15 MS. NADELSON: Yes or no.

16 Q. Do you think if I give you the
17 assignment today you can close --

18 A. 7.4 million.

19 Q. -- next week?

20 A. No.

21 Q. So then there's another
22 condition that says if you put another 10
23 percent down, that you can have another 30
24 days to close November 11?

25 A. Yeah.

56

oct 4 17(2).txt

1 M. Choudhary

2 Q. Can you if you get the

3 assignment?

4 A. I think I could, yeah.

5 Q. Can you close?

6 A. (Witness nods head.)

7 Q. Are you willing to take the

8 chance to get this assignment that if you

9 don't close by November 11 then you lose

10 your million and a half deposit that you

11 put down, that is called liquidated

12 damages, that's what the debtor Lorick

13 would get if you don't close by November

14 11, and then Giella (phonetic), the third

15 highest bidder, would buy the property.

16 So you have to be able to get the money to

17 close by November 11.

18 MS. NADELSON: November.

19 A. I think I can do it if I get --

20 but the bank definitely I could pay the

21 bank, it's not a problem, the five,

22 whatever.

23 Q. By when?

24 A. That I could pay it within three

25 weeks.

57

1 M. Choudhary

2 Q. And how can you do that within

3 three weeks?

4 A. Going back to, if I have the

oct 4 17(2).txt

5 assignment then I could tell you exactly,
6 but I have a whole BS. I can do that one,
7 I can do that bank. I could pay.

8 Q. Are you confident enough that
9 you could do that let's say in a month,
10 instead of three weeks let's say a month?

11 A. Yes.

12 Q. Are you willing to designate
13 your deposit the 1 million 5, basically,
14 as nonrefundable?

15 A. Yes, sir.

16 MR. RINALDI: Which bank did you
17 apply for a loan with?

18 THE WITNESS: The loan I have
19 for everything is the bank in
20 California, they give me 5 million
21 that time.

22 MR. RINALDI: What's the name of
23 the bank?

24 THE WITNESS: I could send
25 you --

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1 M. Choudhary

2 MS. NADELSON: Hold on.

3 Off the record.

4 MR. MCCORD: We are not off the
5 record.

6 MS. NADELSON: It's not a bank
7 like Wells Fargo.

8 oct 4 17(2).txt
MR. MCCORD: Like a hedge fund?
9 MS. NADELSON: Yes.
10 Q. We will leave a space in the
11 transcript and you can fill it in.
12 (Insert)_____
13 _____
14 Q. Let me tell you something about
15 banks. They don't care who pays them the
16 money, they just want their money. And
17 Wells Fargo has gone through a difficult
18 time here because they've been in state
19 court in a foreclosure action.
20 Then they were in the Bankruptcy
21 Court last year with the Chapter 13, this
22 gentleman, Wharton, filed for Mr. Lorick,
23 which they had to expend expenses.
24 Now they're in the Chapter 11
25 for a year. Now they weren't comfortable

59

1 M. Choudhary
2 on August 24 with you being designated as
3 the successful bidder because they did not
4 have confidence that you could close;
5 otherwise they don't care if you buy the
6 building, they don't care about any of
7 that.
8 A. I assure your bank will -- I
9 assure your bank will be paid within 30
10 days.
11 Q. Are you willing to say that that

oct 4 17(2).txt

12 1 million 5 is nonrefundable?

13 A. Yes. The bank will be paid. I
14 need the assignment.

15 Q. You could very well get it.
16 It's up to the judge. We have to tell the
17 judge that, but do you have any kind of
18 documents to raise the confidence level of
19 the bank now that if you got the
20 assignment you got this 5 million, or
21 whatever it is?

22 MR. MCCORD: Ms. Nadelson, you
23 know what, you know what --

24 MS. NADELSON: I will not talk
25 anymore, I'm sorry.

60

1 M. Choudhary

2 Q. The question is do you have any
3 kind of documents to convince the bank
4 that what you're saying is true; they
5 don't believe you?

6 A. Yeah.

7 Q. They don't believe you.

8 A. I saw that.

9 Q. They don't believe you.

10 A. The only person they don't
11 believe is me.

12 Q. Now, the judge even said -- were
13 you in court on Monday?

14 MR. MCCORD: Was he in court on

oct 4 17(2).txt
15 Monday? Were you there?
16 MS. NADELSON: No.
17 Q. Were you there?
18 MS. NADELSON: Not this Monday.
19 Q. Not two weeks ago, two days ago.
20 A. No.
21 Q. The judge seemed to think that
22 the fact that you were willing to lose 1
23 million 5 went a long way to letting you
24 take the assignment from Ghalchi, but the
25 bank still didn't agree to it because the

61

1 M. Choudhary
2 bank doesn't care about the 1 million 5,
3 they're owed 5 million. They want 5
4 million not 1 million 5, they want 5
5 million.
6 A. I assure you, 5 million.
7 Q. And I believe you but remember
8 this is business. Business means that
9 these attorneys [indicating] have to go to
10 a publicly-traded lending institution
11 international that has layers of people in
12 charge and say he can do it.
13 You can't, you can't ask them to
14 go to these people and say, well, he gave
15 us his word because guess what, you know
16 business, it doesn't work that way. It
17 doesn't work that way. You have to have
18 some kind of proof.

oct 4 17(2).txt

19 Even from a bank, if you can get
20 it by tomorrow that would be great because
21 when we show it to them in court from a
22 bank saying it's a condition, "If you get
23 the assignment, we will give you whatever
24 you need."

25 You have 2 million in the bank

62

1 M. Choudhary

2 already, so all you need is like another
3 half a million dollars, 500 -- \$5 million
4 so --

5 A. I don't need another 5, I need 3
6 and-a-half.

7 Q. Whatever you need to close, you
8 have to give them something that says
9 that.

10 A. I will.

11 Q. And if they get it, then maybe
12 they will change their mind.

13 A. I will.

14 MR. RINALDI: Are you saying you
15 have enough to pay the bank or you
16 have enough to close, because the bank
17 is owed 5 million and change, but the
18 closing price is 7.4 million?

19 THE WITNESS: The bank I could
20 arrange right away, to pay to the
21 bank.

oct 4 17(2).txt
22 Q. What about the closing, buying
23 the building?
24 A. Buying the building, that bank
25 in California bank, I have to go back to

63

1 M. Choudhary
2 them. I have to refinance my property
3 now. I own a lot of property.
4 MS. NADELSON: It's gonna take
5 time.
6 A. It will take time.
7 Q. Can you have that refinanced
8 done by November 11?
9 A. That I cannot guarantee. The
10 bank yes, the bank I have.
11 Q. The sales price isn't \$5
12 million; the sales price is 7.4 million?
13 A. The other one I have to go back
14 to after assignment.
15 Q. You should have already have
16 gone back to them.
17 A. How?
18 Q. Tell them you have this
19 assignment.
20 A. I lost a lot of money going back
21 and forth. If there's litigation, I'm not
22 interested. If I don't have assignment, I
23 can't go back to anybody. I need the
24 assignment.
25 Q. How much money --

oct 4 17(2).txt

64

1 M. Choudhary

2 A. I will guarantee you it will be
3 paid then.

4 Q. How much money does it cost you
5 to go to this California lender to ask
6 them to give you the money for the refi on
7 your own building?

8 A. He was really very upset on the
9 24th and I was --

10 Q. Why was he so upset, you paid
11 him money?

12 A. Back and forth, he spoke to us
13 many times. He send us his bank
14 statements, \$23 million bank statements.

15 Q. He wanted to do the deal?

16 A. Oh yeah. And then when they
17 disqualified me -- I don't want to go into
18 that.

19 MS. NADELSON: Can you go off
20 the record?

21 MR. MCCORD: No, no, no.

22 MS. NADELSON: It's not
23 pertaining to this.

24 MR. MCCORD: Off the record.

25 [Discussion held off the

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oct 4 17(2).txt

1 M. Choudhary

2 record.]

3 BY MR. MCCORD:

4 Q. Mr. Choudhary, in order for you
5 to get this assignment according to the
6 terms and conditions as it is now, we can
7 always change it or ask the court to
8 change it, but as the terms are now
9 already approved you have to close by
10 November 11 for the full amount 7.4
11 million not 5 million, that's what the
12 bank is owed, but you have to close for
13 the full amount you can't do it in two
14 parts it has to be in one part, so
15 otherwise you lose your deposit?

16 A. Well, I will try to get the
17 money you know.

18 Q. So when you found out that the
19 auction was taking place, according to
20 your testimony, it was the day before the
21 auction?

22 A. The 21st.

23 Q. What did you do?

24 A. Then we were, first of all, we
25 were very upset.

66

1 M. Choudhary

2 Q. Who is "we"?

3 A. Me, I was sitting there, and
4 Boysin was there also, and Jane was there

oct 4 17(2).txt

5 then.

6 MS. NADELSON: When was that,
7 I'm sorry I missed that, when was
8 that?

9 MR. MCCORD: You can read the
10 transcript.

11 THE WITNESS: The 21st.

12 Q. You, Jane and Boysin was there,
13 and what about Norma?

14 A. Norma was not there.

15 Q. Where were you, Jane and
16 Boysin --

17 A. In my office.

18 Q. -- in your office?

19 A. Yes.

20 Q. On the 21st?

21 A. On the 21st.

22 Q. Why were you in the office on
23 the 21st, were you expecting Norma to call
24 or you happened to be there?

25 A. We were just there deciding what

67

1 M. Choudhary

2 the judge was gonna decide, sitting and
3 waiting there.

4 Q. You didn't know the auction was
5 the next day?

6 A. No, no. We thought that we'll
7 raise the money and everybody was happy.

oct 4 17(2).txt
8 If they knew -- I didn't know there was
9 auction. From Norma's words, "Are you
10 kidding."
11 Q. What does that mean?
12 A. To me it means, no, there is no
13 auction when Boysin is asking her.
14 MS. NADELSON: On the 21st, I'm
15 sorry.
16 A. A few days before the 21th that
17 somebody is telling there is auction going
18 on and she said "Are you kidding."
19 Q. Like there's no auction?
20 A. There's no auction. I don't
21 know how this --
22 Q. So when you found out that there
23 was one on the 21st, what did you do?
24 A. I ask Jane, can I bid it. And I
25 think she called Norma, can he bid it?

68

1 M. Choudhary
2 Can he be qualified to bid it? No. I ask
3 Jane, I said Jane I want to bid it. She
4 said how you gonna qualify there is a
5 procedure. I said what procedure you
6 talking about. We were too busy arranging
7 the money. We didn't know if there was an
8 auction. Now even I don't have a right to
9 bid it.
10 Q. So when you say we didn't know,
11 you mean?

oct 4 17(2).txt

12 A. Me, Boysin.
13 Q. You mean you didn't know?
14 A. I didn't know about Boysin I
15 cannot say. But I think he didn't know it
16 either, but I cannot answer for him.
17 Q. Okay.
18 A. I didn't.
19 Q. Okay.
20 A. Then Norma said if you have the
21 money, you bring the money. Then I the
22 next day made the check and I went there
23 and I bid -- oh, then she refuse me to
24 bid.
25 Then she said show me some

69

1 M. Choudhary
2 proof. Then I showed her proof from the
3 broker. I contacted the broker the same
4 night, the broker very close to me.
5 Q. What is his name?
6 A. David Steinmetz. And I sent
7 something to Norma on the 22nd by 10:00,
8 10:30, maybe it was 11:30, 10:30 something
9 like that and then she qualified me and I
10 bid the building.
11 Q. Do you know Mr. Ghalchi, my
12 client, Mr. Ghalchi?
13 A. Now I know but not before. I
14 saw him over.

oct 4 17(2).txt
15 Q. Do you know Mr. Goldenberg?
16 A. No.
17 Q. The other bidder, do you know
18 Mr. Giella?
19 A. I heard his name but not
20 personal knowledge. I saw him only in the
21 court one time and that day.
22 Q. He was at the auction?
23 A. Yeah.
24 Q. Did anybody talk to you during
25 the auction, approach you in any way

70

1 M. Choudhary
2 anyone from the bank, Norma?
3 After the auction started, did
4 anyone talk to you while the bidding was
5 going on or when there were breaks, did
6 Mr. Lorick talk to you, did Mr. --
7 A. No.
8 Q. Did Mr. Rinaldi talk to you?
9 Mr. Bernardino, Colin Bernardino, did he
10 talk to you?
11 A. No.
12 Q. Did anybody talk to you at the
13 auction?
14 A. You mean before the auction?
15 Q. Did anybody talk to you before
16 the auction?
17 A. They started, Mr. Ghalchi and
18 what is the bank attorney's name.

oct 4 17(2).txt

19 Q. Colin Bernardino?
20 A. Yeah, he said something like
21 he's objecting that I'm not qualified and
22 how -- yeah, he started something. Then
23 the Ghalchi attorney also said something,
24 I don't remember exactly the words.
25 Q. After the bidding started, did

71

1 M. Choudhary
2 anybody talk to you?
3 MS. NADELSON: After the bidding
4 started?
5 MR. MCCORD: Ms. Nadelson.
6 A. I don't think.
7 Q. How did you get to the auction
8 that day, did you go with Mr. Lorick?
9 A. No, I think I was with Jane.
10 Q. Who?
11 A. With my attorney.
12 Q. Did you meet Mr. Lorick outside
13 the courthouse before the auction took
14 place?
15 A. He was there, yes.
16 Q. Did you meet him outside?
17 A. I don't remember if it was
18 inside I met him or outside.
19 Q. Did you talk to him about the
20 auction?
21 A. I spoke a lot, yeah, about the

oct 4 17(2).txt

22 auction.

23 Q. What did you say to Norma about
24 the auction? He was there, too, Mr.
25 Lorick was there when you --

72

1 M. Choudhary

2 A. I never thought he had
3 authority. Now I know he is the one that
4 approves. I thought only Norma is the one
5 who approves.

6 Q. So when you spoke to them it was
7 before the auction, what did you talk
8 about?

9 A. Norma was not letting me bid
10 again, before the auction I'm talking.

11 Q. Did you talk to Mr. Lorick the
12 night before, after you found out the
13 auction was proceeding?

14 A. The night before?

15 Q. The 21st.

16 A. He was sitting there, that is
17 the only way you know that the judge
18 refused, and we have to bid it.

19 Q. Only you and Mr. Lorick have to
20 bid it?

21 A. No, I have to bid it. Lorick
22 has nothing to do with it.

23 Q. We already know that if the
24 property sold of the \$2 million in equity
25 that's gonna come back, that's gonna come

oct 4 17(2).txt

73

1 M. Choudhary

2 back to Mr. Lorick --

3 A. Yeah.

4 Q. -- that he's gotta pay you

5 100,000 dollars or approximately 100,000

6 dollars for your out-of-pocket expenses?

7 A. I don't care whoever buys now.

8 He supposed to pay me that.

9 Q. I understand. Well, whoever
10 buys it?

11 A. Yeah.

12 Q. He's gonna net out probably

13 close to \$2 million maybe a little less,

14 but around \$2 million --

15 A. Yeah.

16 Q. -- after the bank is paid?

17 A. Yeah.

18 Q. And you're expecting to be paid

19 that 100,000 dollars, if you put this

20 deposit up for the 735 and the 1.5 --

21 MS. NADELSON: Two deposits.

22 Q. -- two deposits.

23 Do you also expect him if you

24 lost it to pay you that money back, too,

25 in addition to the 100,000 dollars?

74

oct 4 17(2).txt

1 M. Choudhary

2 A. No. Why he's gonna pay me back,
3 that is my deal; he has nothing to do with
4 this.

5 Q. So he's not gonna get a piece of
6 the building. You will not give him
7 partial ownership in the building, if he
8 gives you money or anything like that?

9 A. Well, that is a future. I don't
10 know what will -- no, why should I. If
11 I'm gonna buy it, I will buy it.

12 Q. Have you talked to him about it,
13 because I know he's very desirous about
14 not losing the building?

15 A. Yes.

16 MS. NADELSON: But also --

17 MR. MCCORD: Ms. Nadelson.

18 Let the record reflect at least
19 ten times she interrupted these
20 proceedings, and I asked her numerous
21 times to stop and she won't.

22 Q. Have you talked to him about it?

23 A. No.

24 Q. So the only money you expect him
25 to pay you back from whatever source is

75

1 M. Choudhary

2 the approximate 100,000 dollars you laid
3 out over the last several months?

4 A. Yeah. There was no need me for
Page 66

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5 to refinance it because of him I refinance
6 it I pay a repayment penalty, I pay
7 broker, I pay this and that. And as he
8 promised me that if you --

9 Q. Now if at the auction. Hold on
10 a minute?

11 MR. MCCORD: Mark this in,
12 please.

13 (Whereupon, Choudhary Exhibit 4,
14 transcript from the auction was hereby
15 marked for identification, as of this
16 date.)

17 Q. I am showing you Exhibit 4 which
18 is the transcript from the auction. I'm
19 asking you to turn to page 9.

20 A. Yeah.

21 Q. All right. In the middle of the
22 page Ms. Ortiz asks:

23 "So does anyone have any
24 questions before we proceed?"

25 Mr. Aryeh, do you know who that

76

1 M. Choudhary
2 is, that's Mr. Ghalchi's attorney?

3 A. Yeah.

4 Q. So he says:

5 "I do. Eli Aryeh representing
6 Mr. Solomon Ghalchi.

7 "I just wanted to know regarding

oct 4 17(2).txt
8 Mr. Choudhary, does he have any
9 relationship to the debtor at all?"
10 And Ms. Ortiz goes, "Familial
11 relationship."
12 Mr. Aryeh goes, "Familial
13 relationship whether or not, yeah, any
14 type of relationship, is there any?"
15 Do you understand what that
16 question means?
17 A. Yeah.
18 Q. Ms. Ortiz says "I'll ask the
19 debtor," that's Mr. Lorick, "so that I am
20 not speaking on his behalf."
21 Mr. Aryeh says, "Please."
22 Ms. Ortiz goes on to say:
23 "I just asked Boysin Lorick if
24 he had a familial interest with Mohammad
25 Choudhary, and he said no."

77

1 M. Choudhary
2 Is that true, Mr. Choudhary?
3 A. Yes, I have no.
4 Q. "I asked him if he shared any
5 interest in real estate, shared any
6 interest in partnership or LLC or other
7 business venture with him, and he said
8 no"; is that true?
9 A. Yeah.
10 Q. So how would you describe your
11 relationship?

oct 4 17(2).txt

12 A. Just helping each other.
13 Q. Friends?
14 A. Yeah. You could -- yeah.
15 Q. And he would do some work for
16 you if you needed it at your building, and
17 you took out the permit for him to do work
18 on his building --
19 A. Yeah.
20 Q. -- even though you know that's
21 illegal, right? Do you know that's
22 illegal to take the permit out in your
23 name, so that somebody else can do the
24 work under your name?
25 A. I don't know that when that

78

1 M. Choudhary
2 was --
3 Q. Do you think it's proper that
4 you have a license to be a general
5 contractor, and he doesn't.
6 So you took the permit out, you
7 applied for it before New York City, and
8 you never intended on doing the work, you
9 let him do the work; is that correct?
10 A. But there was, I don't think it
11 wasn't much, it was just smoke to clean
12 that I know that --
13 Q. It doesn't matter what it was?
14 A. The thing is how dangerous the

oct 4 17(2).txt

15 job is. When you know there is no danger,
16 there is nothing to lose. Then I don't --

17 Q. Then it's okay to misrepresent?

18 A. Yeah.

19 Q. Did you work together in any way
20 at this auction to help Mr. Lorick protect
21 his interest in the property?

22 MS. NADELSON: That's leading,
23 come on.

24 MR. MCCORD: Ms. Nadelson, do
25 not interfere again. I swear, I will

79

1 M. Choudhary

2 call the court in a minute.

3 A. The only way he refinance it, he
4 knew if he was with me.

5 Q. So is the answer to my question
6 yes or no?

7 A. What is the question.

8 Q. Did you in any way help Mr.
9 Lorick to save his building whether it's
10 at the auction or before, you said you
11 helped refinance and you laid out 100,000
12 dollars?

13 A. Yes, yes.

14 Q. At the auction when you found
15 out there was gonna be an auction, did you
16 two talk about working together so that
17 you could be the highest bidder and help
18 him save his building somehow in some way?

oct 4 17(2).txt

19 A. No.
20 Q. You j ust deci ded to go i n --
21 now --
22 A. He --
23 Q. Two days before the aucti on --
24 A. Yeah, yeah.
25 Q. You were goi ng to gi ve hi m

80

1 M. Choudhary
2 \$600,000 and then 1 mi ll i on 2 --
3 A. Yeah.
4 Q. -- \$1,800,000?
5 A. Yeah.
6 Q. Two days before August 22?
7 A. Yeah.
8 Q. On August 22 you upped, you
9 i ncreased your offer for thi s to \$7.4
10 mi ll i on?
11 A. Yeah, yeah.
12 Q. \$5.2 mi ll i on higher than what
13 you were gonna i nvest two days before,
14 why?
15 A. I 'm buyi ng the bui l di ng. He
16 never wanted to sel l the bui l di ng. Now
17 the bui l di ng i s gone to aucti on, he' s out
18 of the pi ctu re now.
19 Q. I s he, though? You' re not gonna
20 have any rel ati onshi p wi th hi m goi ng
21 forward, he' s out of the pi ctu re?

oct 4 17(2).txt
22 A. Yeah, just I mean whatever the
23 friendly, we talked to each other. If I
24 buy the building, it's gonna be my
25 building.

♀

81

1 M. Choudhary
2 Q. Does he know that?
3 A. He knows that.
4 Q. Do you think in the transcript
5 Mr. Aryeh asked if you had any kind of
6 relationship with Mr. Lorick, correct?
7 A. Yeah.
8 Q. And Ms. Ortiz then broke that
9 down saying familial or business ventures
10 or --
11 A. Yes.
12 Q. Do you think it was an accurate
13 answer to say that you and Mr. Lorick have
14 no relationship at all?
15 A. Yes.
16 Q. So you don't think it was
17 appropriate that Ms. Ortiz should of said
18 they're friends, and they were working to
19 put together a deal like --
20 A. Put together, but there was no
21 deal yet.
22 Q. I thought I could of sworn your
23 testimony was that you have the money to
24 close?
25 A. Yes. We had the deal and it did

oct 4 17(2).txt

82

1 M. Choudhary

2 not final.

3 Q. I understand that it didn't

4 finalize.

5 A. It's gone to auction, so

6 everything is finished so all

7 relationships are gone, finished.

8 Q. What I'm saying is do you think

9 it was proper that she said no, no, to any

10 kind of relationship? Meaning no

11 friendship no working together, no trying

12 to get a deal together, no means no; do

13 you think that was proper?

14 A. I think she meant from the

15 auction point of view that we didn't have

16 anything.

17 Q. Do you think she should of

18 disclosed the relationship that you had

19 even during the bankruptcy proceeding by

20 itself, that you were working together to

21 refinance, and that he owed you 100,000

22 dollars?

23 A. You could ask her.

24 Q. I'm asking you.

25 A. She knew everything that I'm

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1 M. Choudhary
2 refi nanci ng the bui l di ng. She knew
3 everything, that I 'm buyi ng 10 percent of
4 the bui l di ng.

5 Q. Did she know that you were hi s
6 credi tors?

7 A. I was hi s?

8 Q. He owed you money, di d she know
9 that he owed you money for your
10 refi nanci ng?

11 A. Many times I spoke to her.
12 Norma, i t's a l ot of money we spend on
13 refi nance only to be able to pay the bank;
14 what i s goi ng on, we want to pay the bank,
15 we want to pay the bank.

16 Q. Did she know the money that you
17 lai d out, that Mr. Lorick and you had
18 agreed that he was gonna pay you back; di d
19 she know that?

20 A. I have no i dea.

21 Q. You tol d her everything el se,
22 but you sai d you lai d out a l ot of money,
23 but you di dn' t say I 'm getti ng i t back?

24 A. I don' t remember exactly these
25 words, i f I sai d to her or not.

84

1 M. Choudhary
2 MR. MCCORD: Mark thi s i n next.
3 (Whereupon, Choudhary Exhi bi t 5,
4 document capti oned "Decl arati on of
Page 74

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5 Mohammad Choudhary" was hereby marked
6 for identification, as of this date.)

7 Q. The top of the Exhibit 5 says,
8 "Declaration of Mohammad Choudhary"; do
9 you see?

10 A. Yes.

11 Q. Have you ever seen this before?

12 A. No, sir.

13 Q. Look at the last page. Not the
14 last page --

15 MS. NADELSON: Second page.

16 MR. MCCORD: Thank you.

17 Q. -- Look at the second page.

18 A. Yes, sir.

19 Q. It says "S/" that means that you
20 authorized Ms. Ortiz to sign your name;
21 did you do that on August 18?

22 A. What is that, the answer?

23 Q. You see your name there, do you
24 see your name?

25 A. No. This is the account number.

85

1 M. Choudhary

2 Q. Second page?

3 MS. NADELSON: Read what it is.

4 Q. Go to the second page.

5 MS. NADELSON: Go to the second
6 page.

7 Q. Is that your name?

oct 4 17(2).txt

- 8 A. Yeah.
- 9 Q. You see the date August 18?
- 10 A. Where is the date on this?
- 11 MR. MCCORD: Show him.
- 12 Q. You see the date?
- 13 A. Yeah.
- 14 Q. Have you ever seen this document
- 15 before?
- 16 A. What is this document?
- 17 Q. Okay. The first thing is on the
- 18 document it says -- Mr. Choudhary?
- 19 MS. NADELSON: He's reading.
- 20 Q. It says, "I have known Boysin
- 21 Lorick for over a decade"; is that true?
- 22 A. Yes, sir.
- 23 Q. Did you give that information to
- 24 Ms. Ortiz to put in this document?
- 25 A. Yes.

♀

86

- 1 M. Choudhary
- 2 Q. So you've seen this document
- 3 before then?
- 4 A. No. This document, I think I
- 5 have seen it, but if you would like me to
- 6 read it. I don't remember it.
- 7 Q. Then take a minute, I'm sorry.
- 8 A. No, no. Can you read it for me.
- 9 Q. Sure. The first paragraph:
- 10 "Is I have known Boysin Lorick
- 11 for over a decade. He is very good

oct 4 17(2).txt

12 friend of mine. I own real estate in a
13 business near the building he owns at
14 3126 Coney Island Avenue, Brooklyn. I
15 have helped him with the building for
16 many years. "

17 Is that correct?

18 A. Yes, sir.

19 Q. What does it mean, I have helped
20 him with the building for many years?

21 A. Well, if there is, you know,
22 again the problem is in construction
23 that's my help, you see it's only
24 construction-related help.

25 Q. That's okay. What do you mean

87

1 M. Choudhary

2 by construction help, what does that mean
3 building, renovating?

4 A. Renovating.

5 Q. So you renovated the building?

6 A. No, I never renovated but by
7 problem if he needs electrician, there's a
8 problem, he will call me and I will give
9 him my guy.

10 Q. Isn't that a business
11 relationship?

12 A. It's not a business
13 relationship. A business relationship is
14 if I'm doing some money thing with him.

oct 4 17(2).txt
15 Q. If you give him your
16 electrician, doesn't your electrician get
17 paid?
18 A. He will pay him directly, I'm
19 not getting commission.
20 Q. "I own a number of parcels of
21 real estate. I decided to help Boysin
22 save his building."
23 A. Number of parcels, okay.
24 Q. I have been trying to help him
25 obtain financing for months, but he simply

88

1 M. Choudhary
2 cannot borrow enough funds without my
3 assistance to pay off the first mortgage;
4 is that true?
5 A. Yes.
6 Q. Did you give that information to
7 Ms. Ortiz?
8 A. Yes.
9 Q. Did you know she was putting it
10 in this document?
11 A. Yes.
12 Q. Did you know she was filing this
13 with the court to see if she can get an
14 adjournment of the auction?
15 A. Yes.
16 Q. You knew all of this?
17 A. Yes.
18 Q. So you've seen this before?

oct 4 17(2).txt

19 A. Yes, yes.
20 Q. Did you sign it; did you ever
21 sign it?
22 MS. NADELSON: It's electronic.
23 Q. Did you ever sign it?
24 A. I know the document. I don't
25 remember if I signed it or not, but this

89

1 M. Choudhary
2 is the document she discussed with me and
3 I know about this document.
4 Q. Are you guaranteeing the secured
5 loan as part of your agreement?
6 A. I have to read the whole
7 document, then I could guarantee. I have
8 agreed --
9 Q. Read it yourself.
10 A. Yes, your answer is yes. I have
11 agreed to provide him with a non-secured
12 loan.
13 Q. That's not a business
14 relationship? If you were to do that, if
15 it was to be done, would that be a
16 business relationship, would that be
17 business?
18 A. Yeah, now I'm buying.
19 Q. If it's done, it's business?
20 A. It's a business.
21 Q. All right. Now you said earlier

oct 4 17(2).txt
22 that you didn't know about the auction
23 until --

24 A. The 21st.

25 Q. -- in the evening when you were

90

1 M. Choudhary

2 at your office with Ms. Nadelson and Mr.
3 Lorick?

4 A. Yes, sir.

5 Q. That's dated August 18 --

6 A. Yeah.

7 Q. -- three days before the 21st?

8 A. Yeah.

9 Q. And that's in support of Ms.
10 Ortiz' motion on behalf of Mr. Lorick to
11 adjourn the auction.

12 So how can you say you didn't
13 know about the auction, when you just said
14 that you provided that information to her
15 to stop the auction at least on August 18?

16 A. To stop the auction. I never
17 knew that the auction is already happen,
18 that is allowed.

19 I thought all these papers to
20 stop the auction, so we could pay the
21 bank. I never knew that the auction
22 already is decided.

23 Q. Well, it wasn't decided but it
24 was gonna be held on the 22nd, and that is
25 to adjourn it, those papers were to

oct 4 17(2).txt

91

1 M. Choudhary
2 adjourn it?
3 A. So it means something that it
4 was already decided.
5 Q. All right. Do you know if Ms.
6 Ortiz paid Ms. Nadelson \$1,300 --
7 MS. NADELSON: 1,350.
8 Q. -- \$1,350 --
9 A. No.
10 Q. -- Last December for --
11 A. She did a lot, I don't know --
12 Q. She did what?
13 A. Not paid -- no, no.
14 Q. Who is "she" did a lot, you said
15 she?
16 A. Norma. No, I don't know.
17 Q. Norma paid Ms. Nadelson for
18 doing work?
19 A. I don't know.
20 MR. MCCORD: Ms. Nadelson, you
21 said you paid 1,350 to Ms. Ortiz?
22 MS. NADELSON: \$1,350.
23 MR. MCCORD: You believe it was
24 December 2016?
25 MS. NADELSON: December 30,

92

oct 4 17(2).txt

1 M. Choudhary

2 2016.

3 MR. MCCORD: What refreshed your
4 memory?

5 MS. NADELSON: I went through my
6 bank statement.

7 MR. MCCORD: You got that off
8 your bank statement that you were paid
9 \$1,350 on December 30 by Norma Ortiz;
10 why were you paid that money?

11 MS. NADELSON: Because I went,
12 you know, like I was kind of, you
13 know, spending my time, I went to the
14 meeting with Mohammad, and Boysin was
15 there.

16 And then I gathered some
17 background information from Boysin
18 before we went there to Norma, to --
19 before she filed. What else? I don't
20 remember what exactly, it was like a
21 couple of hours.

22 MR. MCCORD: So it was a couple
23 hours for doing preliminary work for
24 Norma for Lorick, the Chapter 11?

25 MS. NADELSON: Right, right. I

93

1 M. Choudhary

2 think it says it on the check.

3 MR. MCCORD: It says on the
4 check what?

oct 4 17(2).txt

5 MS. NADELSON: That I helped her
6 with gathering the stuff. Lorick
7 Boysin -- I have to pull the check,
8 bankruptcy -- I think it says that.

9 MR. MCCORD: Can you provide me
10 with --

11 MS. NADELSON: Not for the
12 bankruptcy.

13 MR. MCCORD: -- provide me with
14 a copy of that check?

15 MS. NADELSON: I will do it by
16 tomorrow or do you want it today? I
17 can print it out from your computer.

18 RQ MR. MCCORD: What does that
19 mean, you can e-mail it to me or
20 something like that?

21 MS. NADELSON: If you want.

22 MR. MCCORD: Yeah, can you
23 e-mail it to me, please.

24 MS. NADELSON: Yeah.

25 MR. MCCORD: Do you have my

94

1 M. Choudhary
2 e-mail address?

3 MS. NADELSON: Yes, I do have
4 it.

5 MR. MCCORD: So e-mail it to me
6 please, and I'll tell them to print it
7 out. It won't take long.

oct 4 17(2).txt
8 Q. Are you aware of the limited
9 objection that the bank filed on the day
10 of the sale hearing, I'll show it to you?
11 Hold on a minute, I will show it
12 to you.
13 MS. NADELSON: The bank filed a
14 limited objection?
15 MR. MCCORD: I will show it to
16 you, too.
17 MS. NADELSON: I didn't see
18 that.
19 MR. MCCORD: I will show it to
20 you. I am a nice guy. Mark this in.
21 (Whereupon, Choudhary Exhibit 6,
22 document captioned, "Limited Objection
23 to Sale of Debtor's Real Property and
24 Reservation of Rights Regarding Same"
25 was hereby marked for identification,

95

1 M. Choudhary
2 as of this date.)
3 Q. I will show you what's been
4 marked as Choudhary Exhibit 6, at the head
5 of it it says "Limited Objection to Sale
6 of Debtor's Real Property and Reservation
7 of Rights Regarding Same."
8 Do you see that?
9 A. Yes.
10 Q. Have you ever seen this document
11 before?

oct 4 17(2).txt

12 A. No.

13 MR. MCCORD: Have you?

14 MS. NADELSON: I have not.

15 Q. This is a document that Wells
16 Fargo filed on the day of the sale hearing
17 which was two days after the auction which
18 was August 22?

19 A. The auction was August 22.

20 Q. And the sale hearing was August
21 24, were you there at the sale hearing?

22 A. Yes.

23 Q. Wells Fargo filed this with the
24 court, Exhibit 6, on that day, the sale
25 hearing day. Did you know they filed a

96

1 M. Choudhary

2 limited objection?

3 A. No.

4 Q. It's a limited objection, and
5 basically it is objecting to you --

6 A. I see.

7 Q. -- being qualified the
8 successful bidder, and they're asking for
9 you to be disqualified because you haven't
10 proven that you can close.

11 A. I don't know about this, but
12 they had arguments outside the court with
13 me.

14 Q. All right. But --

oct 4 17(2).txt
15 MR. MCCORD: Ms. Nadel son, you
16 need to listen.
17 Q. Who is "they," Mr. Bernardi no?
18 A. Bernardi no.
19 Q. -- had arguments wi th you
20 outside the court on the day of the sale
21 hearing or another day?
22 A. 24th.
23 Q. That's the date of the sale
24 hearing?
25 A. Yes.

97

1 M. Choudhary
2 Q. When you say outside the court,
3 you mean in the courthouse like in the
4 hallway?
5 A. No. This is the room, yeah, in
6 the hallway outside.
7 Q. When you say they had arguments,
8 you mean Mr. Col in Bernardi no?
9 A. Yeah.
10 Q. And any other attorneys from the
11 bank? Is there what's hi s name Kei th?
12 MS. NADELSON: I think it was a
13 woman.
14 MR. MCCORD: What's her name?
15 MS. NADELSON: A woman was
16 there.
17 MR. MCCORD: What's the woman's
18 name?

oct 4 17(2).txt

19 Q. Was it Theresa Reyes?
20 A. I don't know if it was her.
21 Q. It was a woman not another man,
22 Keith Brandefino (phonetic)?
23 A. I don't know.
24 Q. Anyway, so you were in room that
25 was like a conference room?

98

1 M. Choudhary
2 A. No, no, outside.
3 Q. In the hallway?
4 A. Yeah.
5 Q. Okay. And you were with Ms.
6 Nadelson?
7 A. Yes.
8 Q. And Ms. Ortiz?
9 A. Yes.
10 Q. Mr. Lorick?
11 A. Yes.
12 Q. And Colin Bernardino?
13 A. Yes.
14 Q. And you say we were arguing,
15 what were you arguing about?
16 A. I'm sorry.
17 Q. You want some more water?
18 A. He just came. We were already
19 there, and he started the same thing. He
20 started with me at the bid, on the 22nd.
21 We gonna oppose him, we will

oct 4 17(2).txt
22 disqualify. He's shouting we are gonna
23 disqualify him, we are gonna file the
24 motion. We were doing --
25 I said, listen, take it easy.

99

1 M. Choudhary
2 What are you doing, this is not the way of
3 talking. Then, you know, Nadelson was
4 slapping me saying you shut up.
5 MS. NADELSON: I didn't slap
6 you.
7 THE WITNESS: You push me down.
8 A. Norma also, the way he was
9 talking, and he was shouting. And then
10 Norma comes to me, listen, they filing the
11 motion it will be a five-year litigation
12 can you just forget -- this gonna be a
13 long time in litigation. They are gonna
14 disqualify you anyway.
15 I'm shocked inside. I don't
16 know what happened. I went in front of
17 the judge, I'm disqualified. Even that
18 time I didn't want disqualified.
19 Q. You didn't want them to?
20 A. No.
21 Q. So when Norma came to you
22 outside, and said it will be five years in
23 litigation, and the other things you just
24 said?
25 A. Then she went in.

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100

1 M. Choudhary

2 Q. You di dn' t say, okay, I
3 wi thdraw?

4 A. No, no.

5 Q. You said you still wanted to buy
6 the property and be the bidder?

7 A. Yes. She went i nside and what
8 she said to the judge --

9 Q. Did your attorney Ms. Nadel son
10 know you said that that you still wanted
11 to be the bidder?

12 A. I said, no, Norma.

13 MS. NADELSON: I don' t recal l
14 i t.

15 Q. She went i nside?

16 A. And over thi s she said to me
17 that I coul dn' t show the proof or
18 something -- the word she used something,
19 I don' t remember exactly -- the bank, no
20 the bank -- the bank i s asking me to be
21 di squal i fi ed and there was something he
22 said, and the judge di squal i fi ed me.

23 Now I want Nadel son to talk to
24 the judge. And she says I cannot talk any
25 word i n thi s court because i t' s Bankruptcy

101

oct 4 17(2).txt

1 M. Choudhary

2 Court. And I'm not a --

3 MR. MCCORD: Are you admitted in
4 to practice in the Eastern District of
5 New York? Are you admitted to
6 practice in Federal Court, in the
7 Eastern District of New York?

8 MS. NADELSON: No, I'm not.

9 A. And I cannot talk to the judge,
10 I have nothing else. I just came out.
11 The attitude of Mr. Bernardino. I don't
12 know, I wish you were there.

13 MS. NADELSON: How come you were
14 not there?

15 MR. MCCORD: I wasn't retained
16 by Mr. Ghalchi until afterwards.

17 A. I don't want to open my mouth
18 too much. It's making me -- why is that
19 Norma is putting that there is a process,
20 there is a process, and the bank is
21 opposing me.

22 What is in their mind? It's
23 something in their mind, something is
24 fault in their mind. I mean this is what
25 I think, something is going on.

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1 M. Choudhary

2 MS. NADELSON: In whose mind?

3 THE WITNESS: Listen, Norma not
4 letting us pay the money, bank is not

oct 4 17(2).txt

5 accepting the money.

6 MR. RINALDI: Is there a

7 questi on?

8 THE WITNESS: No, that's the --

9 MR. RINALDI: I'm not sure.

10 MR. MCCORD: I'm letting him --

11 THE WITNESS: Whatever is the
12 bank and Norma believed. And I don't
13 know, maybe it's -- how do I know.

14 MR. MCCORD: Ms. Nadel son,
15 please --

16 THE WITNESS: They didn't let us
17 pay the money, all along. We wanted
18 to.

19 MR. MCCORD: Ms. Nadel son, did
20 you tell Mr. Choudhary before you went
21 to the hearing that you could not
22 represent him in the court, that you
23 weren't admitted in the United States
24 Bankruptcy Court for the Eastern
25 Di strict?

103

1 M. Choudhary

2 MS. NADELSON: Yes.

3 Q. Did she tell you before?

4 A. Yes.

5 Q. So you knew before you went that
6 she coul dn' t?

7 A. Yeah.

oct 4 17(2).txt

8 MR. MCCORD: Did you ever think
9 that maybe you could of stepped up
10 there and said I'm not admitted, but I
11 want something to say on behalf of my
12 client --

13 MS. NADELSON: You know --

14 MR. MCCORD: If he didn't want
15 to withdraw his bid and he's being
16 forced to do something he didn't want
17 to do, and he didn't have an attorney
18 there so did you ever think that maybe
19 you want to tell the judge this?

20 MS. NADELSON: I told him, he
21 asked me a question and I told him --

22 MR. MCCORD: Did you ever tell
23 Norma that he doesn't want this, and
24 I'm not admitted in the Eastern
25 District, so I can't appear? Did you

104

1 M. Choudhary
2 ever tell her that, so maybe she could
3 of told them?

4 Q. She told the judge, it's in the
5 transcript, that they were disqualifying
6 you because of the contingency issue that
7 your means to obtain the money was through
8 a contingency, and Mr. Ghalchi's wasn't
9 through a contingency?

10 A. What is contingency?

11 Q. Meaning like you're getting a
Page 92

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12 mortgage or something like that. So she
13 is saying that the court decided based on
14 that?

15 A. Oh.

16 Q. And the bank's consent that
17 Ghalchi's deal was not the highest offer
18 because it's not, but it was the best
19 offer because you were on a contingency,
20 meaning you had to borrow the money and
21 Ghalchi didn't --

22 A. No.

23 Q. -- and that's why the court
24 disqualified you. She just said I'm not
25 going to get into that, I will designate

105

1 M. Choudhary

2 Ghalchi the successful bidder.

3 Did anybody tell you that?

4 A. Now I know.

5 Q. Now, it's right but that's what
6 happened at the sale hearing.

7 It sounds to me like you didn't
8 want to, and from what your testimony is,
9 you didn't want to withdraw your bid?

10 A. No.

11 Q. You wanted to close, and Ms.
12 Nadelson told you she couldn't represent
13 you and you couldn't speak so...

14 MS. NADELSON: I advised him

oct 4 17(2).txt
15 maybe he should get another attorney
16 and he said he doesn't need an
17 attorney.

18 THE WITNESS: I said can't you
19 even get up and talk to the judge a
20 second. And she said no, no, no, I
21 can't I'm not admitted.

22 MS. NADELSON: I didn't say no.

23 MR. MCCORD: Stop, stop.

24 Q. You're coming to court tomorrow,
25 right?

106

1 M. Choudhary

2 A. Yes, sir.

3 Q. You're gonna be a witness for
4 me?

5 A. Uh-huh.

6 Q. So you're gonna have a chance to
7 tell the judge everything you just told
8 me. So you will have your chance to tell
9 the judge.

10 So you can tell the judge
11 yourself, and you'll be under oath again
12 and you can tell the judge exactly what
13 you just told me because the judge doesn't
14 know this.

15 The judge doesn't know, and
16 maybe if she knew -- I don't think maybe
17 if she didn't -- but who knows maybe if
18 she knew it she might say get an attorney

oct 4 17(2).txt

19 or whatever, but she doesn't know.
20 I didn't know until you just
21 told me this because the transcript
22 doesn't reflect that. And Norma didn't
23 tell me that and Ms. Nadelson didn't tell
24 me that and the bank didn't tell me that.

25 MS. NADELSON: I told you on the

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1 M. Choudhary

2 phone.

3 MR. MCCORD: Not now. You're
4 interrupting me 15 times for the
5 record.

6 Q. So you'll be there tomorrow, and
7 we'll get into it tomorrow.

8 MR. MCCORD: Do have you any
9 questions for him?

10 MR. RINALDI: Just a couple of
11 questions.

12 EXAMINATION

13 MR. RINALDI:

14 Q. Did you have liquid funds to
15 close, did you have the \$7.4 million to
16 close?

17 A. No, I had the commitment was a
18 solid commitment with the bank statement
19 for 5 million approved and the rest of the
20 money I had in the bank.

21 Q. So it was contingent upon you

oct 4 17(2).txt

22 getting the loan?

23 A. Yeah.

24 MR. MCCORD: You said I got the

25 loan, the rest of the money you were,

108

1 M. Choudhary

2 you were borrowing 5 million, and the

3 balance of 7.4 you already had the

4 bank?

5 THE WITNESS: I had, yes.

6 MR. MCCORD: And you had a firm

7 commitment to the 5 million -- Ms.

8 Nadelson, quiet.

9 THE WITNESS: Yes.

10 Q. Did the commitment have any

11 conditions?

12 A. No. I didn't have any

13 conditions. The only condition -- I mean,

14 it's the condition the bank is sending me,

15 that they will give me the money. It's

16 not --

17 MR. MCCORD: Ms. Nadelson.

18 A. -- you could say contingency but

19 when you say -- yes, yeah.

20 Q. There were conditions?

21 A. Yes.

22 EXAMINATION

23 BY MR. MCCORD:

24 Q. What were the conditions for the

25 \$5 million?

oct 4 17(2).txt

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1 M. Choudhary

2 A. The conditions, you know, that I
3 have to send them the check. And I have
4 to, the properties what they were giving
5 them on.

6 Q. Did you need an appraisal, is
7 that one of the conditions?

8 A. No. The appraisal was already
9 done. We send them from the previous
10 broker the appraisal. They know the
11 property what is the property worth. And
12 when they knew I'm putting two points is
13 something from my pocket they were wanted
14 to do it.

15 Q. Do you remember any other
16 conditions that were on that commitment?

17 A. I don't remember. I can see the
18 commitment --

19 MR. MCCORD: Do you have
20 anything else?

21 MR. RINALDI: Just one more
22 question.

23 EXAMINATION

24 BY MR. RINALDI:

25 Q. Were you in the courtroom when

110

oct 4 17(2).txt

1 M. Choudhary

2 Ms. Ortiz gave her statement to the judge
3 about Mr. Ghalchi's bid and your bid, were
4 you in the courtroom?

5 A. Yes, I was there -- you mean on
6 the 24th.

7 Q. At the sale hearing when she
8 gave the statement that you were the
9 contingent bid and Mr. Ghalchi was
10 affirmed, you were there?

11 A. Yeah, yeah.

12 MR. RINALDI: Okay. No further
13 questions.

14 MR. MCCORD: All right. Did you
15 send me the check?

16 MS. NADELSON: I can't send it.

17 MR. MCCORD: Let me see it.
18 Take it off the charger. You can't
19 send this?

20 MS. NADELSON: I tried.

21 MR. MCCORD: Can you text it.

22 MS. NADELSON: It goes to the
23 bank that it was cashed.

24 MR. MCCORD: Let the record
25 reflect -- let me call her in. She's

111

1 M. Choudhary

2 very good at this, maybe she can do
3 it.

4 MS. NADELSON: I can do it
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5 through the computer.

6 MR. MCCORD: Off the record.

7 [Discussion held off the
8 record.]

9 MR. MCCORD: I will show you
10 something.

11 This is a check from the Ortiz &
12 Ortiz bank -- the Ortiz bank account
13 dated December 30, 2016, paid in the
14 order of Jane J. Nadelson, Esquire,
15 \$1,350, \$1,350 payable to Jane J.
16 Nadelson, 3024 Coney Island Avenue,
17 Brooklyn New York, Memo: Lorick
18 Bankruptcy Consultation. TD Bank
19 4302141596 is the account number.

20 MR. RINALDI: I just e-mailed it
21 to myself, so I will be able to e-mail
22 it to you guys.

23 MS. NADELSON: Now, your client
24 took a picture of me, now you're
25 taking a picture of my phone check.

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1 M. Choudhary

2 MR. RINALDI: He's like the
3 paparazzi.

4 MR. MCCORD: Let the record
5 reflect that Mr. Rinaldi on behalf of
6 Wells Fargo and I have both taken a
7 photo shot of the check paid, that was

oct 4 17(2).txt
8 just identified as paid to Ms.
9 Nadelson from the Ortiz & Ortiz
10 account, and we have a record of it
11 now.
12 We are done. Do you have any
13 questions for your client?
14 MS. NADELSON: No.
15 MR. MCCORD: No questions from
16 Ms. Nadelson. No more questions from
17 Mr. Rinaldi.
18 MS. NADELSON: I changed my
19 mind, I have a question.
20 EXAMINATION
21 BY MS. NADELSON:
22 Q. Mohammad said that --
23 MR. MCCORD: That's not a
24 question, you don't start a question
25 by telling me something.

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1 M. Choudhary
2 Q. On the date of August 24 when we
3 were in court for the second time, was it
4 the judge who disqualified you or Norma
5 with her client who disqualified you?
6 A. No, I think it was --
7 MS. NADELSON: Richard, do you
8 want to listen?
9 MR. MCCORD: No, I'm done.
10 Read the question back. Hold
11 it. Read the question back, please.

oct 4 17(2).txt

12 [The requested portion of the
13 record was read.]
14 MR. MCCORD: What's the answer?
15 A. The judge disqualified but Norma
16 and Boysin, they leaded it to that one.
17 They were scared of litigation. They are
18 there, so they disqualified me, they all
19 three disqualified.
20 EXAMINATION
21 BY MR. MCCORD:
22 Q. When you say they leaded, that's
23 Ms. Ortiz or the judge?
24 A. Again and again they were
25 talking to me, litigation, litigation that

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1 M. Choudhary
2 it will be five years. I'm losing this.
3 Norma was also saying it's a litigation
4 started. So what does litigation have to
5 do with me?
6 MR. MCCORD: All right. Thank
7 you. That is it we are done. Thank
8 you.
9 (Time noted: 3:43 p.m.)

10
11 _____
12 MOHAMMAD CHOUDHARY
13
14

oct 4 17(2).txt

15

16

Sworn and Subscribed

17

this____day of _____, 2017.

18

19

20

21

Notary Public

22

23

24

25

⌘

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1

2

C E R T I F I C A T E

3

4

STATE OF NEW YORK)

5

: ss.

6

COUNTY OF NEW YORK)

7

I, SUSAN ADAMS , a Shorthand

8

Reporter and Notary Public within and for

9

the State of New York, do hereby certify:

10

That MOHAMMAD CHOUDHARY, the

11

witness whose deposition is hereinbefore

12

set forth, was sworn and that such

13

deposition is a true record of the

14

testimony given by such witness.

15

I further certify that I am not

16

related to any of the parties to this

17

action by blood or marriage; and that I

18

am in no way interested in the outcome of

oct 4 17(2).txt

19 this matter.

20 IN WITNESS WHEREOF, I have
21 hereunto set my hand this 4th day of
22 October, 2017.

23

24

SUSAN ADAMS

25

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1

2 ----- I N D E X -----

3 WITNESS EXAMINATION BY PAGE
4 MOHAMMAD CHOUDHARY Mr. Mccord 4, 108, 113
5 Mr. Ri nal di 107, 109
6 Ms. Nadel son 112

7

8 ----- INFORMATION REQUESTS -----

9 (INSERT): 35, 58
10 REQUESTS: 93

11 ----- EXHIBITS -----

12 CHOUDHARY FOR I D.
13 Exhi bi t 1, subpoena to testi fy 6
14 at a deposi ti on i n a bankrup tcy
15 case
16 Exhi bi t 2, check from the 7
17 Brownstone Agency, Inc on behal f
18 of Aspen Ameri can Insurance
19 Company
20 Exhi bi t 3, copy of the permi t 10
21 issued to Mohammad Choudhary on

22 July 29, 2013 oct 4 17(2).txt

23 Choudhary Exhibit 4, transcript 75

24 from the auction

25

♀

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1

2 INDEX (Continued)

3 ----- EXHIBITS -----

4 CHOUDHARY FOR I.D.

5 Exhibit 5, document captioned 84

6 "Declaration of Mohammad

7 Choudhary"

8 Exhibit 6, document captioned, 94

9 "Limited Objection to Sale of

10 Debtor's Real Property and

11 Reservation of Rights Regarding

12 Same"

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♀

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1

2 ERRATA SHEET

3 VERI TEXT/NEW YORK REPORTING, LLC

4 DATE OF DEPOSITION: October 4, 2017

5 WITNESS' NAME: MOHAMMAD CHOUDHARY

6	PAGE/LI NE(S) /	CHANGE	REASON
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19

20 _____
MOHAMMAD CHOUDHARY

21 SUBSCRIBED AND SWORN TO

22 BEFORE ME THIS _____ DAY

23 OF _____, 2017.

24 _____
NOTARY PUBLIC

25 MY COMMI SSI ON EXPI RES _____